

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JYODI MISHINA, YASUSHI MASUDA,
and RYOSUKE NAKANISHI

MAILED

Appeal No. 2003-2172
Application No. 09/644,793

DEC 31 2003

ON BRIEF

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before COHEN, FRANKFORT, and BAHR, Administrative Patent Judges.
COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 16, all of the claims in the application.

Appellants' invention pertains to an airbag. A basic understanding of the invention can be derived from a reading of exemplary claims 1 and 14, respective copies of which appear at the end of the main brief (Paper No. 13).

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As evidence of obviousness, the examiner has applied the documents listed below:

Saderholm et al (Saderholm)	5,501,488	Mar. 26, 1996
Gray et al (Gray)	5,538,280	Jul. 23, 1996
Hirai	5,944,345	Aug. 31, 1999

The following rejections are before us for review.

Claims 1 through 4, 7 through 13, 15, and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Saderholm in view of Hirai.

Claims 5 and 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Saderholm in view of Hirai and Gray.

Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sanderholm in view of Hirai.

The full text of the examiner's rejections and response to the argument presented by appellants appears in the final rejection and the answer (Paper Nos. 7 and 14), while the

complete statement of appellants' argument can be found in the main and reply briefs (Paper Nos. 13 and 15).

OPINION

In reaching our conclusion on the obviousness issues¹ raised in this appeal, this panel of the board has carefully considered appellants' specification and claims,² the applied teachings,³ and the respective viewpoints of appellants and the examiner. As a consequence of our review, we make the determinations which follow.

¹ The test for obviousness is what the combined teachings of references would have suggested to one of ordinary skill in the art. See In re Young, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991) and In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981).

² In claim 14, line 10, it appears that the word --to-- should appropriately be inserted before "each".

³ In our evaluation of the applied prior art, we have considered all of the disclosure of each document for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account not only the specific teachings, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

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The first rejection

We do not sustain the rejection of claims 1 through 4, 7 through 13, 15, and 16 under 35 U.S.C. § 103(a) as being unpatentable over Saderholm in view of Hirai.

A review of each of the Saderholm and Hirai and references reveals to us that they individually teach what one having ordinary skill in the art would recognize as respective alternatives, i.e., sewing and adhesives, for securing airbag sheets together. The examiner has not applied any prior art revealing the knowledge in the airbag art of using stitching in conjunction with adhesives.⁴ Since Saderholm and Hirai are the only references applied by the examiner, the evidence before us simply does not support a conclusion of obviousness relative to claim 1 which requires, *inter alia*, a yarn sewed along the peripheral portions of first and second panels of an airbag within a range of width of elastic adhesive to connect the panels

⁴ Of record in this application are references which are relevant to the claimed subject matter. We remand this application to the examiner, *infra*, to assess these references relative to appellants' claimed subject matter.

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together. It is for this reason that this obviousness rejection cannot be sustained.

The second rejection

We do not sustain the rejection of claims 5 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Saderholm in view of Hirai and Gray.

Claims 5 and 6 depend from independent claim 1, which latter claim was discussed above. It is quite apparent to this panel of the Board that the Gray patent does not overcome the deficiency of the Saderholm and Hirai patents as addressed, supra. Thus, the rejection of claims 5 and 6 cannot be sustained.

The third rejection

We do not sustain the rejection of claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Saderholm in view of Hirai.

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Independent claim 14, akin to the content of independent claim 1 earlier noted, sets forth the feature of a yarn sewed along the peripheral portions of first and second panels of an airbag within a range of width of elastic adhesive to connect the panels together. For reasons already set forth relative to claim 1 above, the teachings of Saderholm and Hirai would not have been suggestive thereof. Accordingly, the rejection of claim 14 is not sustained.

REMAND TO THE EXAMINER

This application is remanded to the examiner to assess the claims of this application in light of the airbag teachings of Japan 10-129380 (published May 19, 1998) and Japan 10-102029 (published April 4, 1998), both of record, by themselves or with other known prior art. The examiner should consider whether it would have been obvious to one having ordinary skill in the art to, for example, replace the non-vulcanized sheet 16 (subsequently vulcanized) of Japan '380 (Fig. 13) with an adhesive, following the adhesive 7 teaching of Japan '029 (Figs. 1 and 2).

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In summary, this panel of the board has not sustained any of the rejections on appeal. Additionally, we have remanded this application to the examiner for reasons explained above.

The decision of the examiner is reversed.

REVERSED AND REMANDED

IRWIN CHARLES COHEN
Administrative Patent Judge

CHARLES E. FRANKFORT
Administrative Patent Judge

JENNIFER D. BAHR
Administrative Patent Judge

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